

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

LEE MAYHEW,

Plaintiff,

v.

BRIAN GARDNER, et al.,

Defendants.

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**Case No. 3:07-0735
Judge Echols**

ORDER

This is a prisoner civil rights action in which the Magistrate Judge has entered a Report and Recommendation (R & R) (Docket Entry No. 41) recommending that the case be dismissed without prejudice. Plaintiff has filed no objections to the R & R, even though he was specifically informed in the R & R that any objections needed to be filed within ten days of receipt of the R & R (Docket Entry No. 41 at 8).

Where no objections are made to the R & R, “[t]he district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b). This Court has thoroughly reviewed the record in this case and finds the Magistrate Judge correctly concluded that (1) Plaintiff failed to show compliance with the exhaustion requirements set forth in the Prison Litigation Reform Act (42 U.S.C. § 1997) the Court should not exercise supplemental jurisdiction over Plaintiff’s state law claims because of the recommended dismissal of his federal claims.


In reviewing the record, the Court observes that the day before entry of the R & R, Plaintiff filed a “Motion to Respond to Reply to Motion to Dismiss and for Summary Judgment” (Docket

Entry No. 42) and that this filing may not have been before the Magistrate Judge at the time the R & R was issued. The Court has carefully considered this filing in deciding to accept the R & R. The contentions contained in the filing appear elsewhere in the record and the Magistrate Judge correctly applied the applicable law to the facts in the record.

Accordingly, the R & R (Docket Entry No. 41) is hereby ACCEPTED and APPROVED. Defendant's Motion to Dismiss and for Summary Judgment (Docket Entry No. 28) is hereby GRANTED. Plaintiff's "Motion to Respond to Reply to Motion to Dismiss and for Summary Judgment" (Docket Entry No. 42) is hereby DENIED AS MOOT. This case is hereby DISMISSED WITHOUT PREJUDICE.

Entry of this Order on the docket shall constitute entry of a final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE